

## WANTS BATTERY DAN REMOVED

## EXCISE COMMISSIONER SAYS HE BURIED EXCISE CASES.

Appellate Division Asked to Retire Him From the Bench—Magistrate Finn Has Been Disabled by Illness for Months—Had His Own Ways on the Bench.

State Excise Commissioner Maynard H. Clement has asked the Appellate Division of the Supreme Court, First Division, to remove City Magistrate Daniel E. Finn from the bench. The Commissioner charges that Battery Dan has willfully, unlawfully and fraudulently discharged many prisoners in cases of excise law violations and thus has shown himself incompetent.

The Commissioner cites 132 excise cases thrown out of court by Magistrate Finn between April 19 and October 28, 1909, and charges that in each of these cases the evidence was sufficient to warrant holding the defendant for trial at Special Sessions.

Frederick W. Steele, the Excise Department attorney who has charge of the proceedings against the Tammany leader, estimated yesterday that the other Magistrates hold excise prisoners in about 40 per cent. of the cases. Magistrate Finn, it was said, dismisses about 85 per cent. of the excise cases that come before him.

The Excise Department has been on Battery Dan's trail for almost a year. Bingham, when he was head of the Police Department, objected to the Magistrate's treatment of police witnesses, and the General and Battery Dan had a war of words in which the General accused the Magistrate of being a "fink." Finn, City Magistrate, was the same Finn whose name had appeared in years gone by on police station house blotters as that of a prisoner.

It was through cooperation with the Police Department that the excise people obtained the evidence on which they ask for the Magistrate's removal. The Police Department had stenographic minutes taken of the testimony in all excise cases, and Commissioner Clement has a complete record of the testimony of the parties to the cases.

The Police Department has filed in the Appellate Division a few days ago and Lawyer Steele said yesterday that a copy of the charges, with the other necessary legal papers, was left at the Magistrate's house, at 509 Broome street. The excise Department's process server was not able to get to Battery Dan's house, and the Commissioner said that the Magistrate's family told him. Another copy of the charges was out in the hands of the Sheriff with instructions to serve them on the Magistrate, but apparently the Sheriff has been unsuccessful.

At Battery Dan's house they said yesterday that he was convalescing, but that he was not well enough to see them. He has been ill for several months and has not been in court since last October. The Magistrate's Tammany friends say that he is in a very bad way and that he isn't allowed even to see them.

The Excise Department folks said they didn't know whether the Magistrate was seriously ill or not, but they said that he went out for a drive frequently and under the circumstances they decided to proceed with the case.

At Battery Dan's house it was said yesterday that no copy of the charges or other papers in the case had been left there. Judge Finn has not been served with any papers, knows nothing about the case and will pay no attention to it, it was the announcement made at the house.

"But the excise people say they left a copy of the charges here," it was said yesterday. "The woman who spoke for the Magistrate."

A record of the discharged excise cases for the last month, from April 19 to May 19, will give a pretty good idea of the character of the charges against the Magistrate. In each of these cases Battery Dan was charged with "discharging unlawfully and fraudulently the prisoners."

In Essex Market Court, April 19—Jacob Present, 55 Heister street; Edward Tankey, 79 South street; Samuel Schiff, 729 East 5th street; Joseph W. Wagon, 116 River street; James McNamee, 33 Broome street; and Edward J. Leonard, 31 Bowery. April 21, Herman Miller, 250 South street; April 24, Benjamin Stadelman, 74 Delancey street; April 25, Kate Mandelbaum, 116 River street; April 26, Joseph Himmell, 116 River street; Robert Langdon, 323 Broome street; Samuel Precker, 190 Norfolk street; Harris Shapiro, 153 East Houston street; David Wasser, 242 East 13th street; and Michael Shapira, 117 Bleecker street. April 30, Morris Stoppelstein, Attorney street; Max Agon, 32 Broome street; Berrine Shebert, 180 Livingston street; Joseph Korber, 119 Broome street; Herman Fisher, 6 Jackson street; Frank Buchanan, 79 Peck slip.

May 1, Court of May 9, Bernard Katz, 420 East 14th street; May 10, George Gunther, 260 East 13th street.

Jefferson Market—May 13, Gerald Coogen, 634 Greenwich street; James Boomer, 282 Hudson street; Charles Wagon, 116 River street; May 14, George Marman, 371 West street; May 17, Henry Becker, 134 Thirteenth avenue; Salvatore Andriola, 104 Sullivan street; May 18, Patrick Kilkenny, 41 Seventh avenue.

Say the charges referring to the 132 cases.

"The evidence presented in each of the cases showed that a crime had been committed and that there was sufficient cause to believe the defendant guilty and each should have been held for trial at the Court of Special Sessions."

The papers declare further that Magistrate Finn in failing and refusing to hold the defendants for trial failed properly to perform the duties of his office and did "willfully, wrongfully, unjustly, unlawfully and fraudulently" discharge them.

The Commissioner charges further that the Magistrate exhibits an unwarranted, unjust and unlawful hostility to the enforcement of the provisions of the liquor tax law, also a corrupt interest. The Commissioner says all these things render him incompetent.

Proceedings began under Section 1407 of the City Charter, which says that a Magistrate may be removed after due notice and a hearing before the Appellate Division. The motion is to be argued before the Appellate Division on February 18.

Battery Dan was appointed a Magistrate by Mayor McClellan in 1885. He has one of the Tammany old guard and a leader of the First Assembly district for many years. He was made a lawyer by a special act of the Legislature.

Here is a quoted sample of Battery Dan Finn's remarks to some policemen who had got evidence against bartenders: "You one of the Tammany old guard and admit that you induced this man to violate the law?" he said to Policemen Roon and Hale of the Church street station. The cops grinned.

"Oh, it's funny, eh? Funny to go into this place and get this man to commit a crime? That's the police work, is it? You ought to be ashamed of yourselves. Get out of here! Get out of this court quick! This defendant is discharged."

Battery Dan's friends said yesterday that in all of his decisions in excise cases he was guided by the Tammany old guard and the benefit of the doubt. He believed that most of the cases brought before him resulted from plots to blackmail the saloonkeepers.

Gen. Wood Being Well.

BALTIMORE, Feb. 8.—Gen. Leonard Wood was reported at the Johns Hopkins Hospital to be making good progress in his recovery. He sat up for some time this afternoon and read the newspapers.

## PLOT IN MANAGUA FRUSTRATED

## Madriz Talks of Captured Extraditad, but Bluefields Still Claims Victory.

Special Cable Despatches to THE SUN. MANAGUA, Feb. 8.—According to official information the Government learned a few days ago that a plot was on foot to capture a steamer that was to convey a cargo of arms and ammunition to the Government troops now at Tipitapa, and steps were immediately taken to frustrate it.

Last Sunday night the steamer Managua was lying alongside a wharf with steam up ready to proceed to Tipitapa, when those on watch noticed a number of men beginning to gather on the wharf, apparently with the intention of seizing the vessel. Unfortunately the troops who had been detailed to capture the conspirators did not wait for some overt act, but prematurely charged the crowd from a nearby building where they had been concealed.

The conspirators saw them coming and took to their heels. They were fired on, but apparently none of them was hit, for all escaped with the exception of a few who were captured by their pursuers.

A number of former Government soldiers who had been serving with the rebels, who surrendered to Gen. Vasquez, the Government leader, at the battle of Santo Tomas, have been brought here. They joined the rebels after the Government defeat at Rama, but only served in the revolutionary ranks until a good opportunity presented itself of rejoining the Madriz forces. They will probably be again enrolled in the Government service.

BLUESFIELDS, Feb. 8, by wireless to Colon.—The latest courier from the front, who has arrived at Muelle de las Bueyes, confirms the report of Gen. Menz's sweeping victory over Government troops at Las Caritaz and Santa Clara.

The reports that reach the outside world from Managua telling of victories by the forces of President Madriz are absolutely false.

Gen. Chamorro is now beyond Boaco, en route to Managua, forty-two miles distant. Gen. Menz is holding the Government troops effectively in check at Santo Domingo.

## THREATENS SOCIALIST SPLIT.

But It Is Not Really Expected That He Will Leave the Party.

Special Cable Despatch to THE SUN. NIMES, France, Feb. 8.—The political interest in the socialist congress here is limited to the question as to what attitude the socialists will take in the next general elections and their stand in regard to old age pensions.

At yesterday's session Jean Jaures and his followers carried the day. Prof. Hervé, the anti-militarist, and a majority of his section of the party were furious. They said they had "become the tail of a dog" and threatened to quit the party.

This threat is received with scepticism by the other delegates to the congress. After a heated oratorical battle between M. Luquet, ex-Secretary of the General Federation of Labor, and M. Jaures, the Congress adopted a resolution in favor of supporting the old age pension bill. The motion was carried by 193 votes. The revolutionists' proposal received 186 votes.

## GERMAN HATRED OF FRANCE.

Bitterness Comes Out in Refusals to Aid Paris Flood Sufferers.

Special Cable Despatch to THE SUN. BERLIN, Feb. 8.—The jingo newspapers are trying to dissuade Germans from contributing to the relief of the sufferers by the flood in France. The *Neuesten Nachrichten*, after declaring that it would be a mockery for Germans to subscribe, adds: "Nobody helps us in our distress, while we have provided for hungry Indians and negroes in Martinique and the hyenas of Messina and Palermo."

The *Rheinische Gazette* regrets that many Germans are suffering from French fever. Nothing, it says, has happened in France which does not happen every two or three years in the valleys of the Rhine and its tributaries, yet the French never offer a penny to help the sufferers there.

The *Taegliche Rundschau* makes a similar complaint.

## HELD UP "CHANTECLER."

Scene Shifters Extort a Ralse of Wages Between the Acts.

Special Cable Despatch to THE SUN. PARIS, Feb. 8.—The scene shifters who decided to strike at the Renaissance Theatre on February 1 visited Manager Hertz of the Porte St. Martin Theatre after the first act of "Chantecler" to-night and demanded that the scene shifters' pay be raised from 20 cents to 50 cents a night, threatening that otherwise the men would quit.

M. Hertz was forced to comply with the demand.

## SPANISH-FILIPINO BANK.

New President Chosen to End Strife in Institution Under Church Control.

Special Cable Despatch to THE SUN. MANILA, Feb. 8.—At a meeting of the stockholders of the Spanish-Filipino Bank today Jacob H. Hord, formerly collector of internal revenue, was elected president by a practically unanimous vote.

There has been considerable factional strife among the bank people for some time and it was decided a few weeks ago to elect Mr. Hord in order to put an end to the trouble.

Archbishop Harty and the religious orders control the stock of the bank.

## THE WEATHER.

Feb. 8.—The temperature rose yesterday over all parts of the country east of the Rocky Mountains, and from the Gulf to Canada, except in northeastern Maine and the maritime provinces. It was warmer in Wyoming and Utah and colder in Montana and Idaho and in the Pacific Northwest. There were centres of high pressure over the south Atlantic States and the Northwest, while depressions covered the upper Lake region and the Southwest.

Fall in northern Maine and in Wyoming and there was rain in the south Atlantic and east Gulf States. In the lake regions and eastward to the Atlantic coast it was cloudy. There was a heavy rain in the Pacific Northwest; wind light southwest to southeast; average humidity 64 per cent.; barometer, corrected to read to sea level, at 9 A. M., 30.30; at 3 P. M., 30.28.

The temperature yesterday, as recorded by the official thermometer, is shown in the annexed table.

Lowest temperature, 20° at 12:30 A. M.

WASHINGTON FORECAST FOR TO-DAY AND TO-MORROW.

For eastern New York and New England, unsettled weather with rain or snow to-day and probable clearing to-morrow; moderate to brisk south and southwest winds.

For western New York, western Pennsylvania and Ohio, rain or snow and colder to-day and to-morrow; moderate to brisk south and southwest winds.

For the District of Columbia, eastern Pennsylvania, New Jersey, Delaware, Maryland and Virginia, unsettled weather with rain to-day and to-morrow; moderate to brisk south and southwest winds.

For the Gulf States, Florida, Alabama, Georgia and South Carolina, rain to-day and to-morrow; moderate to brisk south and southwest winds.

For the Pacific States, California, Oregon, Washington and Idaho, rain to-day and to-morrow; moderate to brisk south and southwest winds.

For the Rocky Mountains, Colorado, Utah, Arizona and New Mexico, rain to-day and to-morrow; moderate to brisk south and southwest winds.

For the Hawaiian Islands, rain to-day and to-morrow; moderate to brisk south and southwest winds.

## BIG ROOSEVELT HOME COMING

## HE AUTHORIZES THE REPUBLICAN CLUB TO GO AHEAD.

And the Club Proposes to Invite All Other States to Join New York in the Demonstration—No Details Settled Yet—National Committee to Be Named.

Ex-President Roosevelt will not be back until about the middle of June, but already preparations have been begun in this city to welcome him home. It is the purpose of those who are beginning to think out the plans to make the event not a local but national one. No attempt has been made yet to consider details, but it has been determined that delegations from Republican organizations and clubs from all parts of the country shall be asked to join in the celebration.

Robert C. Morris, president of the Republican Club of this city, said last night that a communication had been sent to Mr. Roosevelt relating to the proposed celebration and that a reply had been received authorizing the club to take the initiative in the matter. Mr. Morris said that he would shortly appoint a committee to arrange the details for the reception to Mr. Roosevelt, and he added that the makeup of this committee would be national.

John E. Stewart, president of the New York State League of Republican Clubs, who will assist Mr. Morris in selecting the committee, went to Washington yesterday for the purpose of conferring with President Taft. Mr. Stewart will not only represent the League of Clubs, but the Republican Club, and he will be the President by appointment to-day. It is understood that President Taft has already been told of the intention to celebrate the homecoming of Mr. Roosevelt and that he is heartily in accord with the proposal. It is understood further that the President will give his hearty support to the carrying out of the scheme to make the reception a nationwide one.

It was said last night that Mr. Roosevelt would probably be asked to make a speech at some of the big centres of the country, but Mr. Morris said he had heard nothing of this proposition, because no details had as yet been considered and that every plan suggested would necessarily be sent to the committee.

It is doubtful if President Taft will be able to take part in the affair. He has promised to go to Alaska in the latter part of May, and he will be in the States by appointment to-day. It is understood that he has been arranged for him would not bring him back East until the early part of July.

WASHINGTON, Feb. 8.—John A. Stewart, president of the League of Republican Clubs of New York, called at the White House today when the cabinet meeting was under way and he failed to see the President. Secretary Carpenter arranged the meeting for to-morrow.

Mr. Stewart explained that he had exchanged cables with Mr. Roosevelt and consulted with some of the friends of the ex-President in New York and had learned that it would be agreeable to him to provide it, provided it was arranged on the day of his arrival in New York.

Before Col. Roosevelt sailed for Africa," said Mr. Stewart, "I was in the city and he was asked to permit arrangements to be made for his homecoming in the way of something like a popular welcome. The former President did not refuse the invitation, but said he would like to keep the matter in abeyance for a while."

"About five weeks ago I called at the White House to tell President Taft, acting for a committee of the League of Republican Clubs, which committee is to be appointed by President Robert C. Morris of the club, as well as for those who are about to leave for Europe, that I had arranged to have a reception for him on the day of his arrival in New York."

"President Taft was the only person to whom it was made known that a favorable reply had been given. He said he had no objection to my first visit to the President to go ahead by all means, and to 'count me in.' Just before calling I received a letter from Col. Roosevelt, in which he informed me that he had received at length with regard to the matter of his reception, which he wished to take place the very first day of his arrival."

"No arrangements have been made as yet been perfected, and I have only a vague notion of just what sort of a programme will be arranged. In a general way, however, the welcome will be simple and dignified and no attempt will be made at elaborate display, but rather to afford an opportunity for America to welcome a former President. Full details of the reception as Col. Roosevelt requests, will be forwarded to him at Kharum, and it is likely that a special committee will meet Mr. Roosevelt in London and perfect the arrangements. It is expected that Col. Roosevelt will arrive on some date between June 15 and 21."

The reception, of course, will be national in scope and character. The committee will be composed of representatives of the League of Clubs, the Republican Club, and the National Committee, which will be named by President Taft.

Mr. Stewart was plying with questions by reporters as to how his plan was unfolded as to who would be on the committee. He said that the committee had been arranged with a view of forestalling any sensational stories that it was a movement to nominate Roosevelt for President in 1912.

President Taft will not be expected to join the crowd and go down to the pier to shout or to get on a revenue cutter and board the incoming steamer. If he consents to send his personal greetings, he will be escorted to a reviewing stand and await Mr. Roosevelt there. Such inquiries as to whether Gifford Pinchot or John D. Rockefeller would be on the reception committee were brushed aside by Mr. Stewart, who appeared to be thoroughly in earnest over the matter.

It was said that the Kaiser intended to receive ex-President Roosevelt in April with the honors usually accorded to a ruling sovereign, but he has abandoned the intention at Mr. Roosevelt's express wish.

He will accordingly be received as a private person of great distinction.

## MAD DOGS IN 30 COUNTIES.

Campaign of Quarantine in Western Ontario—Serious Loss of Live Stock.

TORONTO, Feb. 8.—Margaret Hanna, daughter of W. J. Hanna, Provincial Secretary of Ontario, who was bitten by a dog yesterday at their home in Sarnia, left this afternoon for New York, where she will take treatment at the Pasteur Institute.

Mr. Hanna had just concluded an address to the Ontario Legislature upon the prevalence of rabies all over western Ontario when a messenger handed him a telegram telling him of his own daughter having been bitten.

The question was brought up in Parliament because of an order by the provincial and Federal authorities compelling all dogs in thirty counties of western Ontario to be tied up, muzzled or shot until the outbreak has disappeared. It is estimated that 200 mad dogs are at large. Since the first outbreak of the disease at Queenston through the visit of a dog from the United States in May, 1907, forty-two persons, of whom half were children, have been bitten by dogs supposed to be mad.

Sixty-three cattle, one horse, six sheep and thirty swine have died from rabies.

At present there are four persons from Ontario in the Pasteur Institute in New York. Two of these are from Strathroy and two from Broken. Those in charge at the institute refused to give the names of the dogs.

All are doing nicely and will be able to leave the institute within three or four days, it was said.

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## MUZZLE FOR THE INDIAN PRESS.

Government Offsets Draconic Law by Release of Men Deported for Sedition.

Special Cable Despatch to THE SUN. CALCUTTA, Feb. 8.—The Legislative Council, including the new native members, who were admitted under the recent act of Parliament, passed to-day the bill for governmental control of the press. Two natives opposed the measure, while some others criticised it and submitted numerous amendments, of which three were adopted.

After the passage of the bill the Earl of Minto, the Viceroy, astonished the Council by announcing that the Government had decided to release the State prisoners who were deported fourteen months ago in connection with the seditious movement. He said the adoption of the bill justified the Government's confidence that the enlarged representation of the Indian communities in the Council would strengthen the British administration.

He hoped this event would be the beginning of a new political era. He believed the political position was entirely changed and that the movement which the prisoners had led had now degenerated into an anarchical plot, aimed alike at the British and Indian communities, and that it could only be exterminated by the co-operation of both.

It was to encourage this cooperation and to remove soreness that the Government would release those who had been deported, intending to prove it was willing to trust the influential classes in India and to rely upon their help. It was probable that further outrages would occur, but the Government was prepared to repress anarchism vigorously.

Indian Councilors heartily applauded the release of the deported men.

## SACKVILLE CLAIM ABANDONED.

Spanish Dancer's Son Quits Because Court Refused Delay.

Special Cable Despatch to THE SUN. LONDON, Feb. 8.—Ernest Henry Jean-Baptiste Sackville-West, who claimed the title and estates of the late Lord Sackville, former British Ambassador at Washington, on the ground that he was the legitimate son of the late diplomat and Pepita, Spanish dancer, has withdrawn his petition asking that the present holder of the title and estates, a nephew of Lord Sackville, be ousted.

The petitioner last week through his lawyers asked for an adjournment in order that he might go to Spain and secure additional evidence. The adjournment was refused and the petitioner then ordered his lawyers to withdraw from the case. At the last hearing he acted as his own lawyer.

Then the case was called to-day Sir John Bigham, Presiding Judge of the Probate Court, read a letter from the petitioner in which he said that as the adjournment for the purpose of procuring fresh evidence had been refused he wished, "although it breaks my heart, to retire from this petition, as I am unable to fight my case."

The court reserved its decision.

## THREATEN CUBAN REVOLUTION.

Newspapers Recant Persecution—Gomez Regime Called Worse Than Palma's.

Special Cable Despatch to THE SUN. HAVANA, Feb. 8.—Gen. Evaristo Estenoz, editor of the *Freemason*, the negro press's organ, failed to appear when the case against him for libelling President Gomez was called in court this afternoon. The court room was crowded with excited negroes, including a number of Representatives in Congress. The Judge ordered the police to seek Estenoz and when found to lodge him in jail without bail. It is rumored that Estenoz has taken to the woods.

*La Lucha*, the newspaper which was most influential in instigating the revolution of 1906, warns President Gomez editorially that the country will not stand tyranny. It declares that his administration is much worse and more incompetent than was the late President Palma's.

All the newspapers, with the exception of *El Triunfo*, which is a Government organ, continue to fill their columns with attacks on the Government for its persecution of the press. They also attack the muzzling bill introduced in Congress by Speaker Ferrera.

The negroes are making the prosecution of Estenoz a race question.

## BUDGET FIRST.

Outcome of Liberal Wrangles as to Policy—New British Election in Summer.

Special Cable Despatch to THE SUN. LONDON, Feb. 8.—The moderates and extremists in the Liberal party have been wrangling during the last few days over the policy the Government ought to follow on the meeting of Parliament on February 21. The moderates contend that it is essential that the budget be handled first; the extremists insist that the question of the House of Lords' right of veto is the paramount issue.

Pending the meeting of the Cabinet on February 10 the Government gives no hint officially of the course it will pursue, but the newspapers of all parties print statements this morning, apparently from inside sources, that the budget will have precedence.

This information is coupled with the prediction that there will be another election this summer. The assumption apparently is that the House of Lords will reject any bills the Government sends it dealing with the constitution of the House, and the Government will then appeal to the country.

## RAILROAD TO EDEN.

At Least a Narrow Gauge Line Will Be Built to the Oasis of Harilah.

Special Cable Despatch to THE SUN. CONSTANTINOPLE, Feb. 8.—A narrow gauge railway is to be constructed to the site of the Garden of Eden, which Sir William Willcocks, British adviser to the Turkish Ministry of Public Works, thinks he has located. According to Sir William's measurements the homestead of Adam and Eve was situated in the Harilah district, about 250 kilometers north of Bagdad. The spot is an oasis situated in the center of a desert plain which is traversed by four arms of the Euphrates.

## BRITISH MINISTER OF DEFENCE.

Government Plans Unification of Military Authority in Case of War.

Special Cable Despatch to THE SUN. LONDON, Feb. 8.—The War Office is authorized for a statement to the effect that the Government is contemplating the establishment of a new office, that of Minister of Defence.

The idea is that in a national emergency the fighting arms of the services might be better able to perform their duties under one supreme chief, who would have charge of all the branches.

It is believed that under certain stipulated conditions the scheme will meet with the approval of some of the highest naval and military authorities.

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## THE MARBRIDGE

AR and Lots of it. The Marbridge is built on air lines—surface lines, subway lines too. All its offices are airy.

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